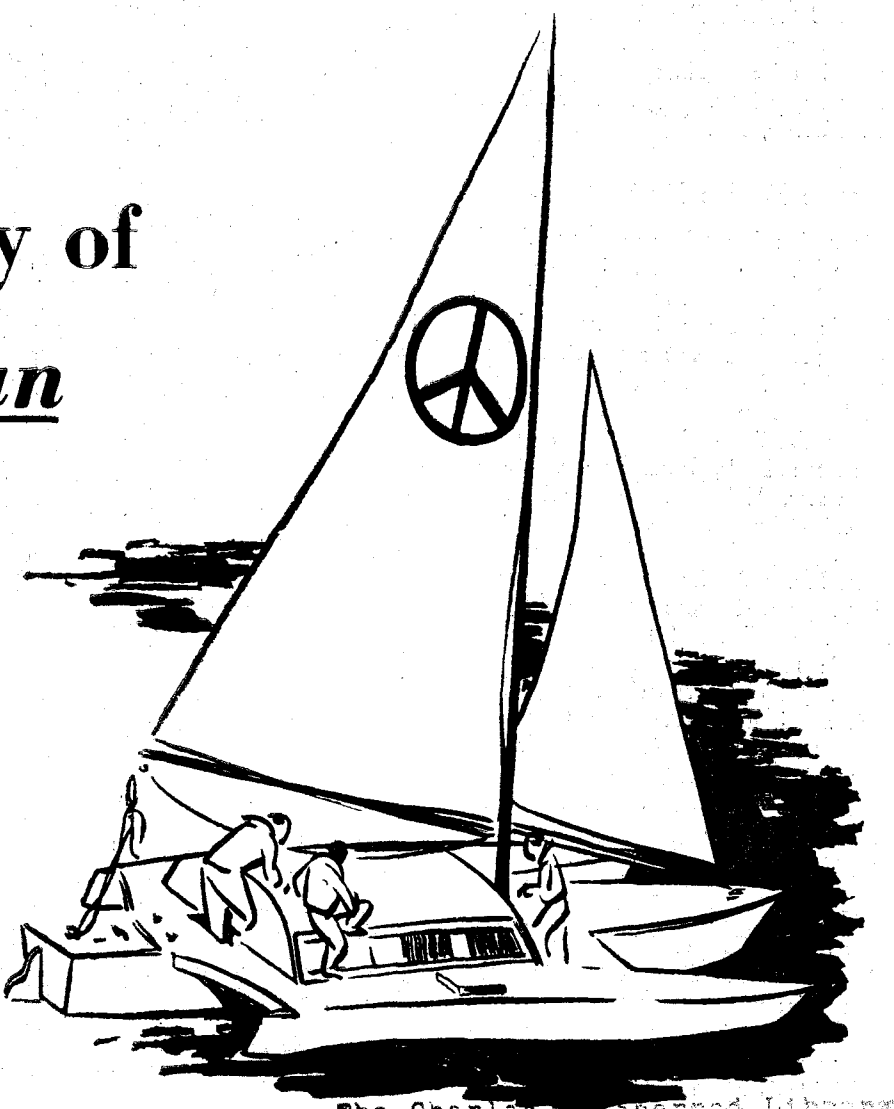
THE
NATION

DECEMBER 29, 1962 . . 25c

ACT of CONSCIENCE

The Story of *Everyman*



W. S. Merwin

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LETTERS

Danger Ahead

Dear Sirs: One may agree with your editorial "Revolution in Reverse" [*The Nation*, Dec. 8] that the myth of "the closed income gap" should be exploded. And in view of seemingly increasing economic inequalities and political problems entailed thereby, one may also agree that it is a sad thing "to be beguiled by roseate visions."

However, it is not at all clear that "a Kefauver-type investigation to clarify and dramatize the issues" is called for or, indeed, desirable. Such an investigation, with clearly stated *legislative* aims, may be in order; but "clarification and dramatization" is an entirely different matter—a matter, in fact, beyond the scope of a valid Congressional committee. After all, "clarification and dramatization" may also be another way to state the purposes of a HUAC "hearing," and the same arguments one would presume *The Nation* would raise against such "hearings" may apply here. ROBERT CAMMER
Providence, R.I.

Peace Probe Protest

Dear Sirs: In a telegram sent to Speaker John W. McCormack and Congressman Francis E. Walter, more than fifty academic and other intellectual leaders have protested the recent HUAC investigation of Women Strike for Peace and other peace groups. The signers [a partial list—Ed.]: Stringfellow Barr, Carleton Beals, Derk Bodde, Dorothy Brewster, Helen L. Buttenwieser, Edmond Cahn, Thomas I. Emerson, the Rev. Joseph Fletcher, Dr. Alice Hamilton, Mr. and Mrs. E. Y. Harburg, the Rev. John Haynes Holmes, Matthew Josephson, Dr. and Mrs. Alfred Kazin, Freda Kirchwey, Denise Levertov, the Rev. John A. MacKay, Mrs. Lewis Mumford, Erwin Panofsky, Clarence E. Pickett, Norman Redlich, Mr. and Mrs. Albert Szent-Gyorgyi, Aubrey W. Williams. SYLVIA CRANE
New York City

Rewards for Courage

Dear Sirs: The criticism in your Nov. 17 issue of the silence of the faculty at Ole Miss would be more convincing if the critic had presented some plan for those who benefit from the courage of individuals who speak up, to share their hardships with them. It is all very well for outsiders to cheer the troops on who are going into battle, but the outsiders must not turn their backs on them afterwards. The government provides death and disability benefits, mustering out pay and retraining for employment, dislocation allowances and hardship bonuses, for its soldiers, sailors, fliers and Marines. If free-speaking and individual courage, in the American tradition, are still to be considered a social advantage, does not American society owe its civilian fighters for liberty and the rule of law as much as it owes its military fighters? R. WULIGER
Wiesbaden, Germany

Point for Sobell

Dear Sirs: Attorneys for Morton Sobell and astute questioning by Circuit Court Judge Thurgood Marshall have elicited a major concession from U. S. Attorney Robert J. Geniesse in the appeal of Morton Sobell in the Federal Courthouse in New York. Mr. Geniesse, arguing against Sobell's plea, conceded that if Ethel Rosenberg's appeal were held now—particularly in the light of the Supreme Court decision in the *Grunewald* case—her conviction would "probably" have to be reversed. While Mr. Geniesse did not extend this concession to cover Julius Rosenberg, it is clear that the reversal would have had to apply to him, too.

The unfairness which victimized the Rosenbergs can never be undone. Their co-defendant, Morton Sobell, is still around, however, now spending his thirteenth year in prison at Atlanta Penitentiary, in Georgia. Since his "guilt" was predicated upon that of the Rosenbergs, he is entitled to the same reversal which fair play, admittedly, would have required for Julius and Ethel Rosenberg.

A new trial or freedom for Sobell is even more urgent when we recall that Sobell's conviction rested on the totally uncorroborated testimony of only one witness, a confessed perjuror, testifying in hopes of not being punished (he never was) for his own crimes.
Brooklyn, N.Y. AARON KATZ

German Democracy

Dear Sirs: Your editorial comments on the *Der Spiegel* affair [November 24] seem to me to draw the wrong conclusion. That the proceedings violated commonly accepted Western standards of freedom of the press seems clear. Such violations can be found in countries with a far more liberal tradition than Germany's. But when during the reign of William II (whose chancellors were not responsible to Parliament) or that of Hitler (who permitted no meaningful Parliament at all) did a civil-liberties issue ever topple a cabinet or lead to the downfall of so influential a minister as Franz Josef Strauss? The outcome of the affair would seem to be eloquent testimony that post-World War II German democracy, however imperfect, is much more than a sham.
Chicago, Ill. WALTER L. ARNSTEIN

Graduate Studies

Dear Sirs: The article by Jack Levine in the October 20 issue of *The Nation* ("Hoover and The Red Scare") has inspired six of the graduate students here at the University of Oklahoma to form our own Communist cell. We will then all sell our services to the FBI, and thus, totally without work on our part, we will be able to augment the extremely small salary paid by the university. . . . C. L. CYPERT
Norman, Okla.

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THE NATION

EDITORIALS

The Conscience of the Country

In Puritan, Colonial and even Victorian times, ordinary men worried a good deal about their consciences. They worry less in our day. The conscience of the country — which can only be the consensus of the individual consciences of its citizens — has atrophied. In matters of peace and war, and everything morally important, the conscience of the country has been entrusted to a few men still willing to stick their necks out, like the Rev. Maurice McCracken of Cincinnati (who refused to pay income taxes as a protest against the militarization of the country), or the heroes of the *Everyman* saga, reported in this issue.

In proportion as the national conscience has waned, the power of the government has waxed. In the *Everyman* case, the action of the government was clearly illegal by previous standards, but in the name of national security anything goes. Although not as baldly stated or brutally executed, the action of the government was of a piece with the violation of Belgium by the Germans in World War I. The government blocks out vast areas on the high seas, asserts jurisdiction by rules of its own making, and does all this in the name of the freedom-loving peoples of the earth, with the utmost assurance that only a handful of its own freeborn nationals will protest.

The crowning irony is that these few, whose consciences had not been swallowed up in the general apathy, were not even able to make their protest effective. They were willing to sacrifice themselves. They were not permitted to do so; the heavy hand of Big Brother was laid on them before they could reach the test zone. And the press, which suffers from the same debility of conscience, took as little notice as if they had been harmless lunatics escaping from an asylum.

HUAC in Trouble

The self-proclaimed mission of the House Un-American Activities Committee is to protect American freedoms by exposing Communists. Its actual purpose, clearly delineated in the nearly thirty years of its existence, is to impose conformity by equating dissent with disloyalty. A group of Westchester clergymen came close to saying as much when they declared that two great dangers threaten American democracy: one "an appalling insensitivity to the moral dimensions of the problems of political action . . . the other . . . the pressure to conform to the image by which the majority defines American loyalty."

Westchester is one of the wealthiest counties in the country, and one of the most conservative. The occasion for the pronouncement by these spiritual leaders was the investigation of Women Strike for Peace by a HUAC subcommittee. As *Newsweek* said in reporting the event, almost from the first bang of the gavel the chairman, Rep. Clyde Doyle (D., Calif.) seemed to sense he had bitten off more than he could chew. By taking a principled stand on the right of freedom of association, Mrs. Dagmar Wilson, the chief witness, added to Mr. Doyle's discomfiture. Pressed to declare that — if she had the power — she would not permit a Communist to exercise leadership in W.S.P., she declared that she had no desire to control those who join in the crusade for peace. "Unless everyone in the world joins in this fight, then God help us," said Mrs. Wilson. For the first time in years, an American citizen boldly declared that even Communists have a right to protest their immolation. Communists are members of the human race. Could heresy go farther?

Several possible or probable past Communists were duly ferreted out, but the HUAC operators must have regretted monkeying with W.S.P. The press generally viewed the subcommittee's ordeal with glee. This episode could be the beginning of the end for HUAC. The committee has become not merely malignant, but absurd. On January 9, when new "rules" are slated for adoption in the House, as many as fifty or sixty votes may be mustered against renewing HUAC's mandate. *The Nation* is convinced that HUAC cannot be reformed, cannot be fumigated, cannot be made acceptable to Americans who believe in the guarantees of the Constitution and the Bill of Rights. Every citizen has a Representative, and every Representative should hear

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from so many constituents sympathetic to the W.S.P. stand that he will think twice before voting to continue HUAC's tenure.

Behind the Tax Cuts

No important political measure is ever proposed solely, or even primarily, for the reasons publicly proclaimed by its sponsors and supporters. To assume otherwise would be to believe that men have no interests, and that interests do not conflict. Actually, democracy is a push-pull affair, and the contest is rarely conducted on the basis of candid argument. It is in this light that the proposed tax cuts must be viewed.

Some of the most ardent tax-cutters are just as fervent in their desire to cut federal spending. They would have us believe that, taken together, these measures will insure prosperity. That the economy needs stimulation is probable enough, but in that case spending should be maintained — or even increased — at the same time that taxes are being cut. Of course, this skirts the edge of inflation, but it is a consistent policy. Both government spending and tax relief tend to increase individual and corporate spending and to activate the economy.

But this government spending that is to be sustained or increased — is it to go for warfare or welfare? During his first two years in office, President Kennedy has shown alacrity in boosting spending for armaments. He has talked a good deal, also, about spending for education, medical care, etc., but in this sector has had little success with the Congressional groups that hold the purse strings. By all indications this process will continue: the economy will become still more dependent on military spending, and the tax cuts will relieve mainly the large taxpayers and big corporations.

The argument that since the government will be cutting its income it must also cut its expenditures appeals to many citizens who themselves are finding it hard to make ends meet. They are told that the federal budget is like a family budget, and they believe that in some mysterious way what the government spends is taken away from them. These taxpayers will, accordingly, support cuts in welfare spending, and that is precisely the purpose of those who have been against welfare spending since, in the years of the depression, it assumed a large role in the federal economy.

Many interests are for a tax cut primarily for such reasons. They may love the tax cut for itself, but they love the chance to do in some competing interest even more. For example, the American Farm Bureau Federation (if not all its members) would like to see farm subsidies hacked. If there is a tax cut, their chances of applying the ax are improved. The bureau has its reasons, which may be good or bad, but the reasons are hidden behind such rhetoric as, "Who will run the farms of America? Will it be farmers or political bureaucrats?"

For the ordinary citizen who may be exchanging a small cut in his income tax for fewer benefits, it is a time to be realistic, suspicious and wary.

WPA, New-Style

The 1930s have become a sort of taboo period in American history. That was when a third of the nation was ill-fed, ill-housed, ill-clothed. What a contrast with the American of today! Today, almost every deserving person eats his fill of delicious food packed with all its natural goodness, resides in a commodious house, dresses fashionably and, in general, lives the good life. Yet there are some residual ties between the glowing sixties and the gloomy thirties, and the WPA is one of them. In the time of Franklin D. Roosevelt and that horrible Harry Hopkins, WPA stood for Works Progress Administration, and the purpose was to give jobs to people who were too feckless to find employment in private enterprise. Now it might stand for War Production Administration, and practically no one is against it. It still gives jobs, most of them in private enterprise; and the government is relegated to its proper role — that of financing the whole gigantic, beneficent effort.

For a while, of course, the War Production Administration was naively thought to provide for the common defense, as the Constitution says, but this notion has long since been discarded. The common defense was provided for some time ago, as a result of the patriotic labors of the inventors of the missile gap and other lacunas in our military posture. There are, after all, only so many Russians to kill, and though each one may be killed several times over, a limit is reached all too soon. The best way out of the dilemma is to stop pretending that the armament program has anything to do with defense. A certain number of jobs are to be created. Production of missiles, aircraft, ships, etc., should be computed accordingly, without any extraneous parameters.

On this basis, there would be no question of canceling the Skybolt air-launched ballistic missile merely because it doesn't work, and substituting Minutemen, some of which probably won't work either. The specious argument is offered that 408 Skybolts will cost $2.8 billion, while the same number of Minutemen will cost only $2.0 billion. So what? The emphasis should be on the fact that one out of every six employees of Douglas Aircraft's Missiles and Space Division is working on the Skybolt, and many others would lose jobs at Northrup, Aerojet-General and General Electric. And think of all those small subcontractors and their employees! No; let us have the Skybolt and the Minutemen too— and an end of all this niggling about "defense."

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Japan Reviviscent

During the recent visit of Foreign Minister Masayoshi Ohira and other members of the Japanese cabinet, President Kennedy let fly with a maladroit toast at a White House lunch party. Japan and the United States, said Mr. Kennedy, should consider how to contain Chinese Communist expansion "so that we do not find the Chinese moving out into a dominant position in all Asia." The Japanese gentlemen no doubt took this in with their traditional politeness, but in Tokyo the reaction was sharply adverse. Yes indeed, said Prime Minister Ikeda, Japan is committed to a policy of anti-communism — but it has no intention of halting trade with Red China. To the same effect, the talks in Washington ended with assurances that no understandings were reached to contain the Chinese Reds.

For once, a post-conference communique meant something. It meant even more than it said. The time is approaching when Japan will once more pursue an independent foreign policy. It could not do so until it had regained economic independence, but that has been achieved in large measure. Political independence will follow. The result, far from Japanese adherence to the U.S. policy of trying to isolate Red China, will be trade between the two countries on a larger scale.

In fact, conditions are ripening for a Chinese-Japanese economic concordat. It will be on the only sound basis possible — the needs of both countries. Trade between the Soviet Union and Red China in 1962 will be at the lowest level since 1951. According to some reports, Cuba, with seven million people, will be carrying on a larger volume of trade with the Soviet Union than China, with almost 700 million. Japan needs to do business in the Chinese market. Trade with the United States is not, and will not be, at a level which can absorb Japan's rapidly growing industrial capacity. Japan is our second biggest foreign customer (Canada, only semi-foreign, is the first), but our purchases from Japan are only about 60 per cent of our sales. We will not buy more because in many fields American goods are in competition with Japanese goods, and the United States has a labor surplus. Looking toward Europe, Japan sees the tariff barriers which are the principal *raison d'être* of the Common Market. Only in China is there a practically virgin market.

The emergence of Japan from its "low posture" may be one of the principal international developments of 1963. On balance, it will probably be a good thing. A Japanese note of realism in Asia will tend to counteract the unreality of our relations with China.

THE STORY of *EVERYMAN*

ACT OF CONSCIENCE . . *by W. S. Merwin*

IT WAS as well for its reputation that the wind was hesitant, slipping across San Francisco Bay toward the Pacific on the early morning of May 26, 1962—and that it was not a citizen of the place whence it was blowing. In moving the thirty-foot sailing vessel *Everyman* from a mooring in Sausalito toward the boat's published destination in mid-ocean, it was helping to violate an order of the United States District Court for the Northern District of California, and other accessories in the departure would shortly be unable to prove that the sailing was not an act of criminal contempt.

The three men on board the *Everyman* were used to considering their proposed voyage in other terms. It was their illusion that they were acting in contempt of no one—they supposed that there was some possible distinction between disobedience and scorn. They had stated repeatedly and publicly what they took to be their purpose: to sail their craft into the "danger area" which the United States Atomic Energy Commission had defined around Christmas Island, in the Pacific. Somewhere in the area, the commission was currently engaged in carrying out the *Dominic* series of nuclear tests, which President Kennedy, with a statement of his exceeding regret, had announced in late April. The crew of the *Everyman*, and the people who had sponsored and abetted the departure, conceived of the trip as a protest against the resumption of nuclear testing by any government, even their own. Once in the "danger area," the sailors said, they intended to stay there until they were themselves destroyed, or removed, or until the tests had stopped. If they survived, they had further plans for sailing toward the Soviet Union to protest the nuclear expolsions which the Russians said would follow the American ones.

Participants in the *Everyman* project, most of whom were affiliated in some way with the Committee for Nonviolent Action (CNVA) which had organized it, had claimed from the start that their activities were dictated by their consciences, for which they professed remarkable respect in spite of the fact that these consciences were at variance, here and there, with the incentives of duly elected government.

They had built, then, this plywood

W. S. MERWIN, poet (and former poetry editor of The Nation*), has long been a sympathetic observer of the peace movement. His latest book of poems is* The Drunk in the Furnace *(Macmillan).*

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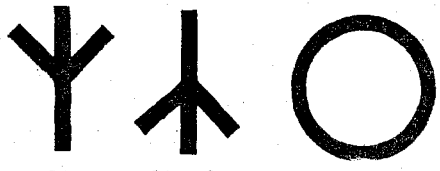
sailboat: a three-hulled affair officially classed as a trimaran. Symbolism, it is said, had nothing to do with the decision. They had merely considered that this sort of craft would be fast and, they were persuaded, seaworthy, and that it would be possible to build it more quickly and cheaply than any more conventional rig which could possibly carry three men three thousand miles into the Pacific. It was their opinion that, with the use of local materials and the donation of local skills, it would be less expensive to build such a boat than it would be to buy one. So they had done it themselves, putting the vessel together in the course of a few weeks, earlier in the spring.

Logic of the Symbols

But symbolism was never far from their efforts, as perhaps is inevitable with acts of conscience, and the builders were early reduced to consoling themselves with considerations of what their project might signify, rather than what it might accomplish. Some of their symbols were simply given to them. It did not take much discussion, for instance, to decide that the mainsail would serve as backing for a large cut-out of the Aldermaston insignia, dark blue on the white cloth. This mark was already traditional to world peace movements, and the CNVA may have entertained hopes that it would mean something to such members of the general public as might have it brought to their attention, but events were to show that any expectations of this sort were over-optimistic. The sign:

This character is most frequently explained as a representation of the semaphore code letters N for "nuclear" and D for "disarmament." At one point when the symbol was being evolved in 1958, a cross had been suggested, but it was pointed out that the cross had been used to sanction violence by the Crusaders, had been a military decoration in several countries, and had been invoked to bless the dropping of A- and H-bombs over Japan. But with the arms of the cross shown drooping as a symbol of human grief, the figure was the same as the combined semaphores for N and D. Apparently the sign had been anticipated in older symbology, as well. Lanier C. Greer, in a letter to *The Nation* (June 23, 1962) refers to Robert Krock's *The Book of Signs*, where the following interpretations, dating from the Middle Ages or earlier, are given:



Man *Man Dies* *Fire*
Eternity
Unborn Child

The suggestion is that the sign stands not for an abbreviation which is necessarily exclusive to the English language, but can be read (and for that matter might have been so read, in cultures that were in ruins before ours began) with a more ample interpretation, to mean "Man Dies in Fire" or "Man Dies Unborn." It was to these ambiguities, at any rate, that the CNVA invited the wind.

The Christening

Then there was the naming of the boat itself. The keepers of the free world have had the luck to find places called Holy Loch and Christmas Island ready to hand for their uses in opposing a godless ideology. Obviously the same facilities were not available to the CNVA and its abettors, and their christenings were open to plain eclecticism. The naming of boats, like the naming of most things, is apt to be a sympathetic rather than a strictly rational process, and the naming of the craft that was meant to sail into a bomb-test area as a protest would require special sympathies. And this was not the first time the problem had arisen.

In the spring of 1957, when the British were conducting a series of nuclear tests at Christmas Island, a British Quaker named Harold Steele had tried to assemble a crew and acquire a vessel to sail into the restricted area. He himself had got no farther than Japan, and his project had never had a boat to name, but his plan had received admiring attention from some Americans who frowned on nuclear tests, too, and who were planning dissident gestures of their own. When in September, 1957, the United States Government announced that it planned to set off a series of nuclear experiments off Eniwetok in the Marshall Islands, in April, 1958, certain members of a committee which was then called Non-Violent Action Against Nuclear Weapons began to work out details for a protest voyage. The captain would be Albert Bigelow, who had commanded warships in both the Atlantic and the Pacific theatres of action during World War II, and had become a Quaker some years after the bombing of Hiroshima. With him would sail William Huntington, as mate, and George Willoughby and Orion Sherwood as crew, in a thirty-foot ketch named, after many suggestions had been considered, *Golden Rule*.

At Honolulu, on Thursday, April 24, 1958, the *Golden Rule* was restrained by a federal court from so much as leaving the dock. Its sailing, the restraining order declared, would violate an Atomic Energy Commission regulation. The captain and crew appeared on May 1 before Judge Jon Wiig, who welcomed the chance to justify the ways of the AEC for the record, and to turn the temporary restraining order into a preliminary injunction. The *Golden Rule* sailed anyway, and was overtaken by the Coast Guard, whereupon those responsible for the sailing were given sixty days to consider it in the Honolulu jail. (Mr. Bigelow wrote a book about the whole thing.) One effect of their venture had been the impairment, for further possible use, of the phrase they had sailed under; for Judge Wiig, in preparing to sentence them, had announced to history that they had "tainted the golden rule." Their successors, making for Christmas Island in 1962, would do well to find another name.

Other possible names had been more or less ruled out, too. Before the 1958 tests had finished, Dr. Earle Reynolds, an American anthropologist, had deliberately sailed

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his ketch *Phoenix* (full name *Phoenix of Hiroshima*) into the AEC prohibited zone. Dr. Reynolds, who at one time had done major research on the radiation effects of the Hiroshima bomb on the surviving children, had with him his wife, their two children and a Japanese yachtsman, when he was boarded by the Coast Guard and forced to sail (or be towed) out of the area and through admittedly unrestricted international waters to a Trust Territory. He had spent over two years and a good deal of money and effort before the Court of Appeals in San Francisco had ruled unanimously that the regulation he was convicted of violating was itself invalid.

Emulators, considering the treatment Dr. Reynolds was accorded by different departments of the government, may well have questioned the luck of repeating the name *Phoenix*, even if they were deliberately trying to establish a tradition. Besides, even in legend the bird that rose from its own ashes was said to be rare, and the relation of Hiroshima to the first *Phoenix* was one which no American city was yet qualified to imitate.

It was, finally, an old suggestion which persisted and settled itself as the name of the new boat even before construction was under way. When the planning of the 1962 protest voyage was in its first stages, Albert Bigelow, who had been the *Golden Rule's* captain, had flown to the West Coast to help with the organizing of it, taking the experience of the earlier sailing to the fitting out of the projected one. The vessel they would build would bear a name which had been proposed originally for *Golden Rule*. It would be called *Everyman*.

The Launching

The name speaks to its own source, obviously, which no doubt is why it was used in the first place in a mystery play, or Interlude, at the close of the Middle Ages. The protestors must have hoped that it would convey something of what they thought of as their cause even to observers to whom history means nothing; in any case, the allusion was considered to be relevant, and it went on conversing with their purpose. "The somonynge of Everyman called it is . . ." (I quote from an edition printed in the first part of the sixteenth century by Richard Pynson); "The story sayth: man, in the begynnynge/Loke well and take good heed to the endynge. . . ."

They had hoped to have the boat in the water in early May. The launching itself was planned as a gesture: it was to take place on May 8, the same day that a nuclear-powered Polaris submarine was to go down the ways, with the graceful blessings of Mrs. J. F. Kennedy, on the country's opposite coast. But the schedules of the two boats had not been joined in heaven, and it took considerable effort to get them to approach each other. It looked as though *Everyman* would be late, with the press waiting and everything. (Or at least with reporters waiting: it is in the tradition of the American press to recount "peace activities" as local news, when they are so far dignified as to be considered news at all, while many war activities, reasonably enough, are by contrast national and international features.) Some of the participants in the *Everyman* project were oddly uninterested in the public-relations angle and went on with preparations for the voyage rather than for its image in the papers. Finally, the elements of a ceremony were asssembled just the same, but where officialdom is likely to be well practiced in this sort of thing, individuals are as apt to betray that they are amateurs, and this is roughly what happened.

The first swing of the bottle missed *Everyman* and felled an onlooker —the boat's official owner, Carl May. On the second, glass flew and first aid had to be applied to the nose of the pretty girl who had performed the rite. The trimaran was barely afloat and the photographers were not yet finished, when hands started to haul it ashore again: the first coat of paint, hastily administered the night before so that the boat could be launched at all, was scarcely dry and would not be improved by a real soaking. Altogether it is doubtful whether the dipping of the three plywood hulls stirred any more of the citizenry to apprehensions of man's fate than did the smooth christening in Groton, Connecticut, of the blunt instrument named as an honor to Lafayette and designed to use two-thirds of the globe as its ambush.

(It was a week which had had a full complement of futile gestures: on May 6—that was the Sunday—an elderly Japanese, Seiichi Matsushima, who had been irradiated at the bombing of Hiroshima in 1945 and had been a patient at Hiroshima University Hospital, had stood in front of the tomb erected to the memory of the victims of the Hiroshima bombing, in the Peace Memorial Park there, and had committed suicide. He had left behind him a note addressed to the American and Russian embassies asking why men could not live peaceably, and declaring that all his survivors are brothers. Local news.)

Publicizing the Crime

From the moment that the CNVA had begun to organize the 1962 protest voyage, it had made its plans public. The members of the committee shared a belief that nonviolent actions should always be performed "in a spirit of openness"; the authorities concerned should be informed in advance, in as much detail as possible, of exactly what they might have to deal with. This approach is considered to be more than simply an extension of the protestors' own exercise of nonviolence; it is supposed that, in some cases at least, it may help the authorities to a measure of nonviolence of their own. For instance, at a demonstra-

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tion at the AEC building in New York City, in March, 1962 (while bruises were still fresh from the famous club-swinging charge of the mounted riot squad into a gathering of demonstrators, men, women and children, some of them sitting down, in Times Square), Bradford Lyttle, former National Secretary of the CNVA, had put the principle in his own way. "We must make sure," he had told some fellow demonstrators, "that the police are aware of the full limits of our intentions, and we must do nothing to surprise them, because if you watch their faces you'll see that they're frightened. If they're startled, they're liable to behave like frightened men. We must try to help them not to." At that time, with the riot squad's action still uncondoned by the city officials, the police were reluctant to comment on anything at all, and it is not known what they thought of Mr. Lyttle's sympathy for their faces.

The practice of notifying the authorities of plans as soon as they were formed had become a matter of tradition as well as one of principle. In January, 1958, George Willoughby and Lawrence Scott, for the CNVA, and Albert Bigelow and William Huntington, for the crew of the *Golden Rule*, had sent identical letters to President Eisenhower, John Foster Dulles, Lewis Strauss of the AEC and leading officials of the United Nations, including Dag Hammarskjold and the chairman of the United States delegation to the United Nations, Henry Cabot Lodge, setting forth in detail their decision to sail a boat into the test area and the reasons therefor. The letter and an accompanying statement giving further information were released to the press twenty-four hours later. The material evoked no official response from the American incumbents, at the time, but was used later by the government's prosecutor to prove that the government had known all along of the plans for the *Golden Rule's* voyage. In view of the tardy and, in the end, uninspired use which the authorities had made of that knowledge, it might seem rather surprising that they were willing to call attention to how long they had had it, but they may have been confident of some final invulnerability in their case.

In the Reynolds sailing, the decision to enter the test area had been made when the *Phoenix* was actually on the high seas, proceeding from Honolulu to Japan on the most convenient course, which if kept to, would pass straight through the 400,000-square-mile forbidden zone. It was not until they were nineteen days out of Honolulu and less than two days' sailing from the restricted area that the Reynolds family and Nick Mikami, the Japanese yachtsman who was sailing with them, had all made up their minds to continue on their course and sail into the zone. On the same night they had communicated their intention to a Coast Guard vessel which had nearly run them down, and on the following day they had broadcast a statement of their plans on the ship's radio. Dr. Reynolds was actually well inside the test zone when the *Phoenix* was halted by a Coast Guard vessel and boarded, and he was put under arrest and forced to change course and sail to Kwajalein.

Dr. Reynolds' unarmed invasion of the forbidden area is not known to have affected the course of the 1958 test series, to have jeopardized the national defense, nor to have disclosed to the American people knowledge which might have endangered their welfare — eventualities which had seriously perturbed several branches of the government. On the other hand, the fact that Dr. Reynolds actually had managed to get inside the zone itself, and that he had done so by stating his plans when he was already on the high seas, were points which figured in many later discussions of protest voyages.

Argument for Secrecy

It was not necessary, for instance, for protestors or their sympathizers to be able to answer critics of the principle of openness who, in due course, would declare that the organizers of protest voyages had no real intention of ever having to face the unpleasantness and dangers of a long sea journey followed by exposure to radiation and possible blast effects—that, in fact, they did not mean to risk having to carry out the voyages they projected, and that they announced their intentions in order to make sure that they would be stopped. But it must have been convenient to be able to point to the fact that one group of protestors had actually carried out their stated plans. (There were other answers, too, of course. Harold Stallings, of *Everyman*, in 1962, would say that other people might, if they chose, decide that he never expected to go through with the voyage, but that for his own part he could remember how scared he'd been.) Still, the evident likelihood that Dr. Reynolds had made it only because he had announced his purpose when he was already at sea and close to the test area lent persuasiveness to those who believed that the only way to get into the zone in 1962 would be to keep any such purpose secret until the last possible moment. Many who shared this opinion went so far as to suppose that the government had set itself absolutely against any such challenge as might be implied by a sailing into a test area, and would prevent such a voyage by any means it might consider necessary, legal or not. But other organizers of the *Everyman* voyage, accustomed to addressing themselves to the best in everybody, clung to a notion that the authorities were not yet so arbitrary in their use of force.

It was not a comfortable position to defend, in view of the histories of the earlier test series and voyages. Some of the Marshall Islanders, for instance, might not have agreed that the United States had been visibly scrupulous about observing any law, national or international, once it had decided to use their islands (a Trust Territory, consigned by the United Nations to the United States for safe keeping) for the 1958 tests. Again, the AEC, in arrogating to its peculiar uses hundreds of thousands of square miles of the Pacific Ocean, had never been made to hesitate by the existence of Article 13 of the Laws of Maritime Jurisprudence in Times of Peace, which reads: "No state or group of states may claim any right of sovereignty, privilege or prerogative, over any portion of the high seas, or place any obstacle to the free and full use of the seas." (Admittedly, international law is hard to enforce.)

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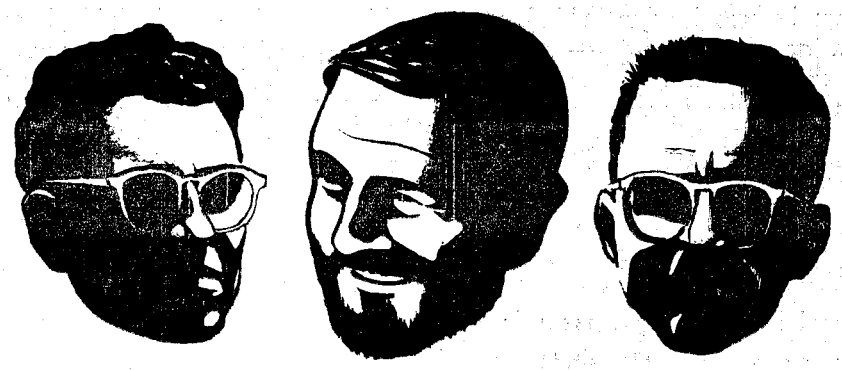
Again, at the time of the Reynolds arrest and during much of his subsequent treatment, the representatives of the U.S. Government had behaved with a disregard for the processes of law, which, in an ordinary citizen, might have been considered dangerous. Among other things, upon arresting him in a place where their jurisdiction was eminently debatable, they had issued no warrant, refused to inform him of the charge against him, neglected to remand him from military to civil custody until it suited them to do so, interfered at the same time (and on the high seas) with a citizen of another country (Japan), failed to allow the defendant to introduce evidence in his own behalf at his hearing and made it impossible for him to have the counsel of his choice. These violations, and others like them, were apparently not in contempt of anything which the law necessarily protects, and no one had been troubled by them except their victims.

Even so, some of the CNVA would have contended that the government wanted to obey the law if it could, and they might have reminded skeptics that when the authorities had decided to stop the *Golden Rule* in the spring of 1958, and had had no law to invoke in order to do so, they had gone so far as to enact a special AEC regulation — three months after the project had been announced and three weeks after the boat had actually sailed for its avowed destination — aimed at preventing it from continuing. The regulation, officially designated as "U.S. AEC Title 10, Part 112, Section 112.4, *Prohibition*," had read: "No United States citizen or other person who is within the scope of this part shall enter, attempt to enter, or conspire to enter the danger area during the continuation of the Hardtack test series (the name of the tests has been brought up to date since 1958 and the statute has been amended) except with the express approval of the appropriate officials of the Atomic Energy Commission or the Department of Defense." (As time had been short and the sailboat constituted an emergency, the AEC and the Department of Justice had even waived the public hearing and the statutory waiting period which would otherwise have been necessary before such a regulation could have been enforced.)



Edward Lazar *Harold Stallings* *Evan D. Yoes, Jr.*

The organizers of the voyage had fitted out *Everyman* with water and supplies for weeks at sea — food for forty days, water for sixty: they thought it would be best not to risk putting in at Hawaii on the way to the zone. There were seventeen days between the launching of the trimaran and the date of the proposed sailing. The time was spent in checking off the supply lists which had been compiled by Albert Bigelow and others, in working on the craft's radio equipment and in shake-down cruises in the bay and open ocean. The preparations were slowed up a little by the fact that the *Everyman* project was news by now — locally — and that visitors kept appearing at the boat-yard with questions.

The Crew

The crew could well have used months. Quite apart from the readying of the boat itself, there was the problem of sailing experience. Crew members for a voyage such as this— or at least such had been the view of the CNVA — ought to have clear convictions on the relations between individual conscience and nuclear tests, the arms race and what Lewis Mumford (*The Atlantic*, Oct., 1959) has called "the morals of extermination," and they should have some basic sympathy with the essential aims and principles of nonviolent resistance. Then, of course, they should be experienced sailors. But the moral and philosophical qualifications, or so the committee believed, were indispensable, whereas it should be possible for one member of the three-man crew, at least, to pick up a rudimentary but perhaps sufficient nautical experience in the weeks before *Everyman* was due to sail.

And the final make-up of the crew bore witness to this opinion. One of the original choices for the project was Edward Lazar, whose experience of opposition to institutionalized violence was extensive and the result of careful deliberation. Mr. Lazar is a quiet, steady, twenty-seven-year-old New Yorker who had graduated from Columbia and served in the Army. In the early fifties, a sojourn on Formosa in a military capacity had convinced him of the criminal futility of force, and in 1959 he had joined a civil-disobedience protest at a missile base in Nebraska and had been imprisoned for five months. He had also spent six months in India studying the achievements of Gandhi and his followers, and had been a member of the San Francisco-to-Moscow walk and participated in a demonstration against Soviet testing held in Red Square at the end of the walk. But the first sail in his life was on board *Everyman*, some days after its launching.

Harold Stallings, the thirty-year-old captain, represented a more even balance of sailing experience and nonviolent principles. He is a Quaker and had served on the staff of the Pasadena office of the American Friends Service Committee. And he had once owned and sailed a boat of his own, somewhat larger than *Everyman*; it had been offshore and not open-ocean sailing, but it had been sailing. Mr. Stallings was the least conventional looking member of the crew: all his actions display the directness of a gentle bear, and he confronts the world through a rust-colored Ulysses Grant beard. He was also the one family man on *Every-*

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man; he was leaving behind him a wife and four children — sailing, as he explained, not in spite of them, but as a step toward providing his children, and those of other men who were unable to do such a thing, with a world in which they might reasonably expect to be allowed to grow up. He was also leaving behind him a good job as Director of Pacific High School in Palo Alto, California.

The member of the crew with the most considerable experience at sea had come most recently to a personal moral position on the subject of nuclear weapons and individual protest. He was Evan Dedrick Yoes, Jr. — serious, unobtrusive, a graduate of the University of Texas, who had studied electrical engineering at Stanford University and served in the Navy (he would later write "Prison is rather like the Navy. 'Now all the following named men, lay down to the [Guard] Captain's office . . .'") where he had learned navigation. After his discharge, he had worked as a radio engineer and as an announcer. He had felt for years that the arms race, nuclear weapons and testing were regrettable, but had thought that individual opposition to them was pointless. He had read, for instance, of the Nevada protest on Hiroshima Day (August 6), 1957; on that date eleven men, including Albert Bigelow, after standing in meditative silence for some time outside the gate of an AEC test site near Las Vegas, and after informing the authorities of their intentions, had walked onto the site as a protest and had been arrested.

At the time, Mr. Yoes had thought their action was rather silly. A little over four years later, in the winter of 1961, he found himself working as a radio announcer in a small town in the mountains of northern California: little to do, nowhere to go, plenty of time to read. He read. The more he read and reflected on history and on the development of the cold war and the race in nuclear weapons, the more he was drawn to an opinion which had been expressed in *Life* magazine (though he had not read it there) in the issue of August 20, 1945: "Our sole safeguard against the very real danger of a reversion to barbarism is the kind of morality which impels the individual conscience, be the group right or wrong. The individual conscience against the atomic bomb? Yes, there is no other way." He realized that he no longer thought the Nevada protestors had been silly.

In the spring, when he had quit his job and gone down to Berkeley, some of his friends there had mentioned the *Everyman* project and he'd thought it an admirable idea. A while later he had heard that the organizers of the project needed crew members and he'd hoped they would find them. Later it had crossed his mind to send his name to put on their list, but he had dismissed the thought: he had felt awed by his notion of the kind of men who would undertake such a venture. He was sure that they must be saintly and rather heroic types who would not be interested in his offer.

A Matter of Conscience

Then one evening at a party he had heard that what the *Everyman* organizers were really looking for was a navigator, and he had felt at once that this brought the matter to his doorstep. He found himself asking himself where he got off pretending to approve of what these people were doing if, when he was perhaps in a position to give them the help they needed, he didn't at least offer to do so. (The lines had been waiting in *Everyman*, numbered 237-8, saying it for Felowshype — who defected later—and for him and others who did not: "For he that wyll saye and nothynge do/Is not worthy with good company to go. . . .")

Once again he told himself that acts of this kind were futile, and the thought stopped him, and then he recalled the 1957 Nevada project and reflected that he was himself a proof that the action had not been entirely futile, for if he was standing there at that moment pondering a step that might lead him to participate in a similar venture of unknown scope and consequences, the example which had stayed in the back of his mind for four years and had gradually impelled him, as much as anything else, to his present position, was that same protest action at the base outside Las Vegas, which at the time he had thought was silly. He had picked up the telephone and told the voice at the CNVA office (they do not keep regular hours — some of their detractors are quite right) that his acquaintance with the history and principles of nonviolent resistance was limited, but that he was sympathetic and would like to discuss the matter, and then he had outlined his qualifications as sailor, radioman and navigator, and had offered them to *Everyman*. They might, he said, if they wished, put him on their list. They told him the list of possible navigators was very short and that if he was in fact essentially in agreement with their aims and means and would present himself the next morning, his chances of qualifying were excellent.

He took his qualifications along, and it was clear before long that he was being allowed to include himself in the project, and not long after that it was plain that he would be the third member of the crew. Not that many questions were put to him directly. The CNVA is not a Quaker organization, but some of its members are Quakers, and a great many of its ways of approaching situations and decisions have been molded by Quaker traditions. It is not consistent with the Quaker view of the dignity which is available to human conduct for a person or a group to grill someone about his beliefs. Besides, in this case the circumstances themselves were revealing: no one but a heedless adventurer or exhibitionist would have been likely to volunteer for the *Everyman* project, with its stated purpose of "putting men under the bomb," unless he had some basic sympathy with what they were trying to do. And having volunteered, it would be unlikely that an intelligent person could pass the whole of the shakedown period in complete unconcern about why he had made his decision and was doing what he was doing. It was a fair guess that, during the two weeks that Mr. Lazar would be concentrating on picking up as much seamanship as possible, Mr. Yoes would probably be applying himself to a scrutiny of his own motives and their implications.

Meanwhile the plans were worked out in final detail. On Saturday morning, May 26, the boat would

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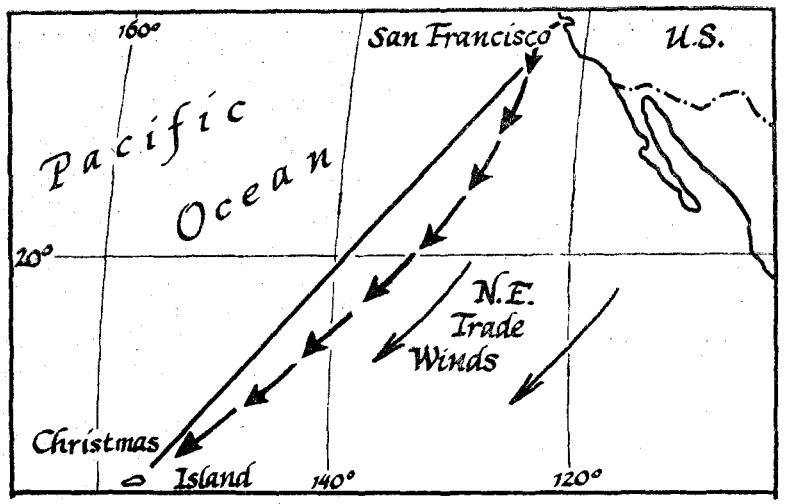

Arrows indicate proposed voyage.

sail across the bay to pass near Marina Green, at the foot of Fillmore Street, San Francisco, where any who wished to wave good-by would have been asked to assemble. From there the craft would turn and pass out to sea under the Golden Gate Bridge. Ahead of them to the southwest would lie 2,500 miles of open ocean before they reached the nearest edge of the Christmas Island test area; 750 miles out, the vessel should run into the northeast trade winds, which should take it toward the restricted zone at an average speed (estimated on the basis of other Atlantic and Pacific passages made by this class of sailing vessel) of around 175 miles a day.

First Legal Blow

If they managed to get outside the three-mile limit, onto the high seas, without official interference, the crew planned to continue toward their destination unless physically compelled to stop. In the weeks before the announced departure date, the Coast Guard had been approached on the subject, and a spokesman had stated that they had no grounds for preventing the sailing.

But the government had evolved its own traditions for dealing with this sort of gesture. As in the *Golden Rule* sailing, where the regulation which was to be used to obstruct the voyage had been enacted after the voyage was in fact already well under way, so here the authorities had waited until the last possible minute—and then a little bit longer—before producing their impediment. This was a further reminder of *Golden Rule*: a restraining order, based on a new AEC regulation resembling that which the San Francisco Court of Appeals had ruled invalid in the Reynolds case. It forbade Messrs. Stallings, Lazar, Yoes, Carl May (owner of *Everyman*) and Roger Moss and Robert Swann of the CNVA, as well as the committee itself, to move *Everyman* from its berth at Sausalito harbor. The order had been requested of Judge William T. Sweigert of the U. S. District Court for the Northern District of California by the office of the U. S. Attorney, Cecil Poole, who had submitted that the proposed voyage of the boat into the test area would be "an interference with the conduct of operations engaged in by the United States of America in its sovereign capacity to provide for the common defense and security and to protect the health and safety of the public." Furthermore, "the United States of America, the plaintiff herein, will suffer immediate and irreparable injury for which it has no adequate remedy at law." As far as is known, this restraining order had been asked for with a straight face and granted in like spirit—after office hours on Friday, May 25, 1962, the evening before *Everyman* was to sail. The lateness of issue meant that the order could not be contested before the following Monday, at the earliest.

At the same time the U.S. Attorney had filed a complaint asking for an injunction against the same defendants, for the same reasons. This too was granted, and it too, as the judge later pointed out, might have taken its turn and been contested in the courts. The papers containing these official restraints were accompanied by a solemn document from the AEC recounting its regulation and professing its legitimacy, and by another from Vice Admiral Herbert D. Riley, U.S.N., Director of the Joint Staff, Joint Chiefs of Staff, stating his belief that the sailboat in question would ruin the nuclear explosions he was supposed to take care of.

Bundles of these informations were made up for the defendants, one for each individual named and one for the CNVA, "their agents, servants and employees, and all other persons in active concert or participation with them. . . ."; and the bundles were, as the phrase goes, served on the defendants. This meant that the United States Marshal, Edward A. Heslep, and his assistants saw to it that the people named got the orders which referred to them. The U. S. Attorney's delay in asking for the papers, and the fact that they were finally issued less than thirteen hours before the announced departure time, gave the marshal a lot to do that Friday evening.

A thankless job, too. At the harbor Mr. Lazar, for one, declared that he was not interested in the literature which the marshal had brought him, and there was nothing for that officer to do but to lay the writs on *Everyman*, where they promptly blew off. (It was not Marshal Heslep but another who had been bespoken to take the word to *Everyman* in the first place, viz., 1.63: "Where arte thou, Deth, thou mighty messengere?") It was after midnight, according to the office of the U. S. Attorney, before most of the papers had been delivered, and on that point the CNVA would contend that it had been "improperly served" since there was no indication of who, in particular, the papers had been addressed to.

Decision to Defy

The committee was convinced of its moral right to sail; but this move on the part of the government surprised no one. Knowing what they were dealing with, they had not only foreseen the possibility of such an action (though its timing seemed exaggerated even to their experi-

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ence), but those concerned had just about decided what they would do if such an eventuality occurred. It seemed clear to them that the authorities were planning to use the courts to delay their sailing until it would be too late for them to reach the test zone. They themselves had no way of knowing how long the tests would continue, and the U. S. Attorney could not know either, exactly, though he might have the benefit of some official estimates. But they had had some experience of judicial delay. They remembered Dr. Reynolds' case — the judges shrugging him on from court to court. If they stayed to contest the order, they might be kept in the bay area until the end of the test series was in sight, and then the case might be shelved. Their protest, conceived in moral and human terms, would have been diverted into legalities and nullified. And if they were to go into court, discover that some such process was entangling them, and then decide to cut loose in the middle of it and sail, they would be in a far weaker position than they were in now. These were some of the reasons why Mr. Lazar was not as friendly as he might have been when Marshal Heslep, in cowboy hat (his summer one) and modified cowboy boots, arrived with the message.

The committee's interpretation of the government's intention was fortified by the manner in which the authorities had acted quite as much as by what they had actually done. Of course, it may have been impossible to get a restraining order at any time except after office hours and the late newspaper editions of the Friday afternoon before the Saturday morning on which the boat was to sail, but it did seem unlikely, considering that the authorities had known of the committee's intentions —and had made a point of the fact that they were familiar with them and took them seriously—for nearly two months. Whether or not a restraining order might have been obtained earlier (in which case it might have been contested earlier, with less danger of the legal process delaying the sailing until it was too late), it was customary and would have been courteous for U.S. Attorney Cecil Poole to warn the committee that he intended to apply for such a paper. It was plain that he would have had time to do this much, at least, for the affidavit from Vice Admiral Riley which accompanied the restraining order was dated May 5—nearly three weeks earlier.

Mr. Poole, when asked on May 26 why he had waited until so late to apply for the order, declared that he had not known until that late when the boat was really going to sail. It was true that the departure date had been postponed from the 13th of May; on the other hand, the sailing had been announced for the 25th some two weeks before, and Mr. Poole had had notice of it. He did not explain why he was willing to take the committee's word about its intention of sailing into the test area, but was reluctant to believe it on the subject of the departure time. Mr. Poole might have acted no differently if he had been under some obligation to present the committee with a surprise order, synchronized to catch it within a few hours of the announced departure. After a brief consultation, the crew and the committee announced their determination to sail in spite of the order.

The Sailing

It was not an elegant part of the harbor, where the *Everyman* was moored. In the cold, early morning light, on the 26th, a Coast Guard boat passed close, at intervals, on a patrol which might have been routine. Shortly after daybreak there were already spectators. One woman was standing by herself, in silence, conducting what was described as a vigil in sympathy for the enterprise that was about to begin. Mr. Lazar was already on board *Everyman*; Mr. Stallings arrived. The departure was scheduled for 7 A.M. Near the hour, Mr. Yoes arrived. The Coast Guard vessel moved in very close, but then moved out again. A few minutes after seven the mainsail went up, the lines were cast off and *Everyman* stood out into the bay.

It sailed past Alcatraz to Marina Green, where a demonstration with placards and banners was waiting to wave good-by. A press boat, the *New Merrimac*, followed. At nine o'clock *Everyman*, on a port tack, passing close to an atomic submarine, slipped under the Golden Gate Bridge into the ocean named for peace. A Coast Guard cutter, the *Taney*, and the *New Merrimac* moved out to sea behind it, keeping it in sight.

The sea was rough, there was an overcast and a stiff wind. Bright-colored oilskins and life preservers appeared on the white sailboat. When it was nearly 10:30 and it seemed that *Everyman* had made it and was happily beyond the three-mile limit, in international waters, the press boat turned back. There were lawyers on board; they might have known that the three-mile limit does not apply to U.S. citizens (on vessels registered in the United States, at least) if the United States Government chooses to extend its care to them beyond that point.

And so, when the U.S. Attorney had been informed that *Everyman* had sailed, he had at once requested of the court an order for the three crew members to return and show cause why their sailing was not in contempt of the Temporary Restraining Order. The "show cause" order, as it was called, also named the other defendants: the officials of the CNVA, their agents, servants and all those other instruments. It was granted, according to the U.S. Attorney's office, at around noon on the 26th, and with it there was an order attaching *Everyman* (which the judge would say he had thought necessary in order to insure that the defendants would show up in court). The U.S. Attorney and his assistant had then hastened across town in the company of the marshal and a deputy; some time around 2:20 they had boarded a ninety-five-foot Coast Guard cutter at the Fort Point Life Boat Station, and the chase was on.

The Boarding

It was nearly 4:30 in the afternoon when all the vessels drew together: *Everyman*, doing seven or eight knots in the rough sea, the large Coast Guard vessel *Taney*, the press boat *New Merrimac* and the *CG95310* carrying the marshal with the orders and a U.S. Attorney suffering from qualms such as the administration of the death penalty had not been known to rouse in him when he had served as Governor Brown's

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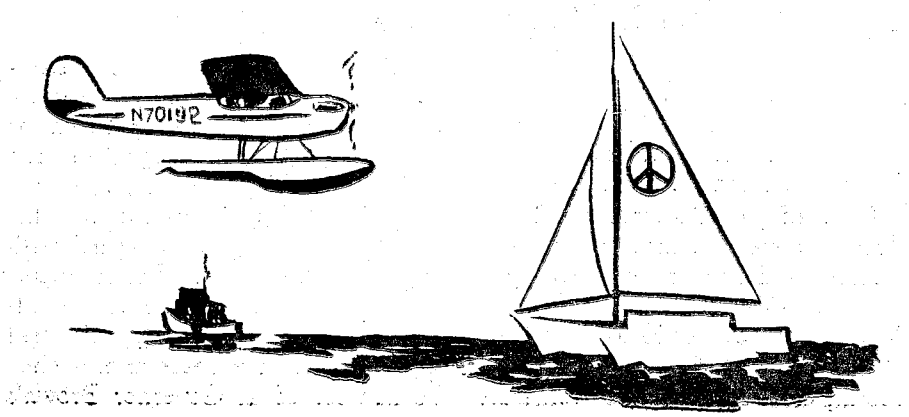
clemency secretary. Overhead a small seaplane had been circling for a half hour or more in the low overcast. Land was out of sight. The wind, which had dropped shortly before noon, was up again, and bitterly cold. The *Taney* lowered a motor whaleboat with a five-man crew, which made its way over to the cutter, picked up the officers of the law, and made for the trimaran. All the vessels moved closer to *Everyman,* the several Coast Guard craft signaling to one another with semaphore flags. With some difficulty the whaleboat narrowed the gap between itself and the trimaran, and hailed it. Mr. Yoes, on board *Everyman,* asked the officials their purpose, and said, "Ours is to sail into the nuclear-test area of Christmas Island." He was told that theirs was to serve him with papers, which they described into the wind.

The three crew members had foreseen such a possibility and had discussed what each of them hoped he would do in the circumstances. They had planned not to stop unless physically compelled to do so; they were on the high seas and clung to a quaintly literal belief in "freedom of the seas" and in the San Francisco Appellate Court's ruling that the earlier AEC regulation was invalid; they were convinced that they had a legal right to refuse to stop, and that the government had no right to detain them. On the other hand, the marshal had made plain his intention of boarding them, and with a rough sea running it seemed apparent that someone might be injured in the process unless the *Everyman* crew cooperated. In the end they hove to and allowed the authorities to board their sailboat.

The marshal had come equipped with enough handcuffs to go around and enough chains to have taken a light truck over the Rockies in winter, but in the end they went unused. He had left his Stetson behind, but he was still the man who does not mind informing the telephone that he is "not afraid of the devil in his own backyard," and he raised one cowboy boot to be the first aboard *Everyman.* At that point the trimaran shied, and it was nothing but the natural promptness of a Coast Guardsman in grabbing him by the belt that saved him from going in. As it was, he sat down hard in the bilges of the whaleboat. But Marshal Heslep loves his job and the thing to do is to get right back on it, and he did, followed by his deputy, who is proud of his job, too, and shows it by wearing a tie clasp replete with a motif of handcuffs.

This time, when the marshal got aboard the boat with papers, he did not entrust them to *Everyman.* The crew members behaved as they had planned to behave. They heard him out, and Messrs. Stalling and Yoes, realizing that the marshal was not responsible for the legality or lack of it in his action, agreed to accompany him. Mr. Yoes showed a Coast Guardsman a few details to help him sail *Everyman* back into the bay. Mr. Lazar, however, as a protest against what he regarded as an illegal restraint made upon him in international waters, went limp, and while not resisting the men consigned to remove him, refused to cooperate and had to be carried from the vessel. It was Mr. Yoes's and Mr. Stallings' impression that when the marshal had requested them to go along to the Coast Guard cutter, they had asked him whether or not they were under arrest and had been told that they were. This was an impression which the marshal could not later account for. There was no doubt about Mr. Lazar's arrest, but he was indifferent to whatever name the authorities might choose to give to their action.



The First Hearing

All the boats returned to the bay and Mr. Lazar, that same night, was removed to the county jail. On the following day, a Sunday, he was arraigned before a U.S. commissioner and charged with "willfully obstructing a duly authorized officer in serving proper court process." Bail was set at $1,000, but Mr. Lazar, for reasons which he would give later, was not interested.

On the same day, all three defendants appeared in court in answer to the "show cause" order. Mr. Stallings and Mr. Lazar spoke for themselves without attorneys. Mr. Yoes was represented by Allen Anderson, who was appointed by the court, and Marshall Krause of the ACLU. A spokesman for the CNVA informed the court that Mr. Lazar had been brutually treated in jail, when he remained limp; judo holds and knees in the back had been used to encourage him to move. The U. S. Attorney declared that this was not called for and directed the marshal to make inquiries; but the report, some days later, had not yet been made, nor had the complaint been dropped.

The first main hearing, however, was put off until the following Thursday, the 31st, in the morning session. The corridor outside the courtroom was crowded that morning and barricades had been put up to contain the waiting crowd. In San Francisco, the Federal Building houses the post office as well as the federal law courts; downstairs on the sidewalk a picket line was already filing back and forth past the recruiting posters, with placards reading "Free *Everyman*" and "Free Ed Lazar." Mr. Lazar, convinced that his individual consent had been treated with contempt, still refused to give it to the authorities, and since he would not walk he had been brought into court this time, as on the previous Monday, in a wheel chair. The suit

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came up after one involving peculation in Laos and another whose protagonist was a soldier from Connecticut who pleaded guilty to charges of mail theft and forgery, and expressed through his counsel a belief that the discipline of the Army was helping to straighten him out. When Mr. Lazar's case was announced, Judge Sweigert called for a recess.

During the respite, a young man entered the courtroom who stood up, when court resumed session and the rest were seated, and unfolded a paper banner reading, "Freedom Cannot Survive Nuclear War." He was taken in hand by the marshal's deputies, whereupon he went limp and was dragged and carried from the room and from the building and deposited outside.

Legal Fencing

A great part of the morning's session was taken up with sorting out the question of legal representation for the three crew members in the several criminal and civil suits which had been instituted against them. The chief addition in this matter was the presence of A. L. Wirin, one of the most distinguished civil-liberties lawyers in the country, who was there to assist Mr. Stallings and to help with the presentation of the argument against the restraining order and the AEC regulation. The restraining order and the order attaching *Everyman* expired that morning, and Mr. Wirin mentioned the fact that legally a restraining order could not be extended without a showing of good cause. He himself requested a week's continuance of the case. The judge extended the restraining order and the attachment. The U. S. Attorney also desired a continuance of the criminal action; it was granted, and the trial was fixed for the following Thursday, June 7.

Before the session ended, the judge raised the question of Mr. Lazar's bail. It had been fixed at $1,000, he said, but Mr. Lazar had declined to make any promises. The judge remarked that he was now considering releasing Mr. Lazar, since the court could, after all, issue a bench warrant for the defendant's arrest if it seemed likely that he was trying to escape. Would Mr. Lazar, the judge asked, return? Mr. Lazar answered that since he had been seized outside the jurisdiction of the United States, he felt no obligation to return. The judge, it was plain, would have been happy, nevertheless, to see Mr. Lazar out of jail at that point, but the possibility disturbed U. S. Attorney Poole. Judge Sweigert so far yielded to Mr. Poole's scruples as to confine himself to suggesting to Mr. Lazar the reduction of his bail to $250. Mr. Lazar replied that, in his own view, he was a free man who had been brought to court unjustly and would refuse to buy something which was freely and rightfully his. In a level voice he told the judge that if the amount of his bail were reduced to one dollar he would not pay it. When the other two crew members left the courtroom, he was wheeled back to the ministrations of his jailers.

Having achieved the first part, at least, of what he wanted, and got everybody together, Mr. Poole dropped the proceedings against the CNVA and its vaguely enumerated abettors. The government, he said (having instituted the case), was not sure that it had sufficient information to represent that these defendants participated in aiding the sailing. This sounded like willful ignorance in view of the fact that accessories from all over the country had been recording their names and addresses to help him out, indicating as they did so that they should be included in the suit against *Everyman*, for they had given the voyage whatever support they had been able to manage. Whether or not Mr. Poole read them, the declarations were no longer of service to him.

Outside the Courtroom

Outside the post office, the picket line had grown. The placards reading "Free Ed Lazar" and "Free *Everyman*" were still there and had been joined by others, among them "Bomb Tests Are in Contempt of People," "Resist Tyranny With Your Own Life, Not With That Of Mankind," and "Humanity Is Everyman's Concern." The picketers had small signs, bearing their name, pinned to their clothes. Some of these included *Everyman* as a Christian name, so to speak. There was a certain amount of discussion among the demonstrators about the likelihood of being arrested, or of an incident of some kind occurring. On the raised stones flanking the post office doors, and along the sidewalk, stood lines of spectators—male for the most part, and for the most part hostile.

Around the curb sat the city police in cars, several of them nursing shotguns. Here and there among the picketers was a beard — one of the natural growths which so enrages the familiar type of American male who is anxious to demonstrate his masculinity by displaying the fact that he is exceptionally like everyone else. "Bums," one of these gentlemen remarked, looking for any eye to dodge; "they're bums, the lot of them, nothing else to do."

They had planned something else and the authorities had been notified. At 2:30 a small number of demonstrators intended to go into the building to the U. S. Marshal's office; once there they meant to sit down on the floor as an act of civil disobedience in support of *Everyman*. If they were not allowed into the office itself, they planned to sit wherever they were stopped. Of course they expected to be arrested.

When the civil-disobedience protest was planned, it had seemed likely that not more than five or six demonstrators would take part, including the unofficial leader of the action, Ira Sandperl, a high school teacher from Palo Alto. But well before the time when they were to enter the building, it was plain that there would be more participants than had been expected; in the end there were more than twenty of them who filed in and, when civilly requested not to make a difficult situation for the staff by blocking up the small office, sat down in the corridor outside it. "Now," said a mail shifter as they walked slowly past him, "you're messing with the government. Mess with the city all you like, but now you're messing with the government." He pronounced this discovery many times and it yielded him an inexpensive pleasure; he seemed to expect that

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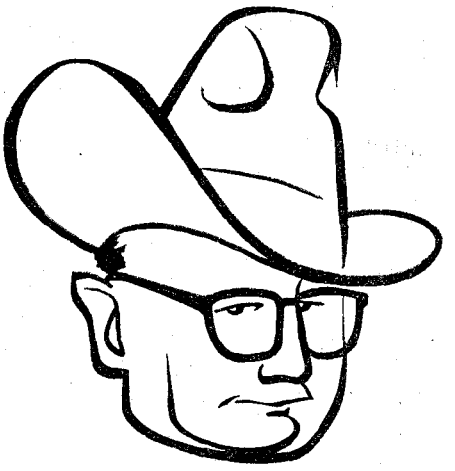
if he waited long enough, he might witness a public execution.

In the narrow hall the seated demonstrators, expecting to be removed to the jail at any moment, scribbled notes to friends instructing them whom to call up, where the keys were, what errands had not been finished; they handed the missives to sympathizers standing crammed among the photographers, to be passed on. They had been sitting there for some time when it was announced that they would be allowed to stay there, unarrested, until five o'clock. It was rumored that a telephone call from Robert Kennedy's office in Washington had discouraged more arrests than might be necessary. *The Catholic Worker*, bearing a large woodcut of the Crucifixion on the front page, began to pass from hand to hand and was caught in the pictures. A woman who, with her husband, had been on the San Francisco-to-Moscow walk, sat with her small baby asleep in her lap. One spectator remarked that it was a mistake to bring the child along, and a demonstrator replied that everyone there would do what he could to see to the child's safety, and asked why anyone should be more concerned about the protection of this one baby than about the millions whose futures were being jeopardized by bomb tests and the arms race.

Night Vigil

At five o'clock the expected mass arrest was again postponed; the marshal, wearing his Stetson to protect him from photographers' flash bulbs, reminded Mr. Sandperl and the sit-ins that they were on federal property and could be arrested at his pleasure, but said that they would be allowed to stay in the building until it closed if they would move out into the main corridor. The demonstrators complied, picking up their possessions and themselves and taking them to a broader stretch of corridor facing the post office boxes. There they spent the evening watched over by General Service Administration guards. It must be made plain, to the credit of these civilized officials, that they are in all respects distinct from the San Francisco police force — the shotgun cherishers whose barely repressible boyishness had had a moment of public fulfillment a year earlier when they had turned fire hoses onto a crowd of demonstrators at the City Hall hearings of the House Un-American Activities Committee. These guards rarely wear firearms and appear to have been selected with a view to keeping the peace by other means, including force of example.

Between the beginning of the sit-down and the end of the day, some



Marshal Heslep

of the guards and some of the demonstrators had reached a degree of mutual sympathy which no one had expected. And at midnight, when the marshal asked the demonstrators to leave so that the building could be closed, again reminding them that they were liable to be arrested, and they explained that they had come to stay until removed and had expected to be arrested when they came in, the guards removed them — lugging them out to the sidewalk on stretchers—with unimpaired civility.

The picketers who had been on the sidewalk since the afternoon, and the crowd of spectators who had assembled at the back door of the post office, on a side street, to watch the removal of the sit-ins, were used to the cold of the San Francisco night by this time. The sit-ins piled on clothes, deciding what to do next. They had considered some of the possibilities before they had known for certain what would happen to them at midnight, and now agreed on one for which tentative preparations had already been made: they would stay outside the building all night and go back in as soon as doors were opened the next morning.

Along Seventh Street, between the sidewalk and the front of the post office, there is an area six or seven yards wide, paved with black and white marble tiles, which is federal property; at the back of it a ledge low enough to sit on and perhaps a yard deep runs along the building itself. During the course of the day, the tiled area in front of the building had become a gathering place for demonstrators, their sympatherizers and their hecklers, and the ledge had turned into the place they went back to. In the afternoon it had begun to look lived on: books, clothes, hampers, picketers' signs (turned face downward, in accordance with a regulation about non-federal signs on federal property) had settled there, taking their chances under the pigeons on a higher ledge. As it grew colder, after the sun had gone, blankets and, eventually, sleeping bags began to appear, and well before midnight the front of the post office had begun to look like an encampment. After midnight it became one. More sleeping bags arrived; some of the picketers and most of the sit-ins (including several students who had final examinations on the following day) arranged themselves as comfortably as they could on the stone, and some went to sleep, while others sat up and talked, and a few kept a thin picket line going.

The Delilahs

At eight o'clock the next morning, when the post office opened, those who prepared to sit in and others who were simply cold picked up their gear and went back into the corridor that runs past the mail boxes. Some spread out blankets and went on trying to sleep; the rest sat along the wall. They were asked to keep the middle of the corridor clear, and they tried to. Ladies in crisp hats and men with ventilated shoes and little identities in their lapels picked their way past to collect mail. Some of the demonstrators, catching the eyes of these citizens, ventured to wish them good morning, but either their civility

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did not elicit much pleasure or the citizens were shy about showing it. Some passers-by went so far as to ask the guards what the government thought it was doing, allowing this sort of thing; and their criticism of the authorities and of the Constitution itself, in some cases, attained a pitch of free-wheeling dissent which left the demonstrators themselves far behind, and started the guards on a week-long course in learning how to explain to Americans about the essential rights of Americans.

Already on that first morning the demonstration, both inside and outside the post office, had more or less the appearance that it would keep as long as it was there. Most of the participants, though by no means all, were under twenty-five: many were students and spent a good bit of the time studying for finals, surrounded by a small high-water mark of belongings; almost all looked tired and untidy (they could hardly have looked otherwise, sleeping on the street). The post-office sanitary facilities were denied them, but the Greyhound terminal, across Seventh Street, was more public-spirited. The need for baths was taken care of by the demonstrators themselves: those who had apartments or rooms nearby offered the use of them to the others. They had this one worked into a system and were taking turns departing with keys and coming back washed some days before the ladies in eyeleted gloves began to suggest that only the bathed have rights.

The ladies developed a principle which implied, among other things, that all men with beards except Abraham Lincoln and that Jew before whom Pontius Pilate washed his hands automatically smelled. They defended their own sex against the rising danger of uncut, unrinsed, unpermed and unnetted hair, and for unnecessary reinforcement in their cause they recruited passing husbands, and were joined by a flying squad of plain-clothes persons from the League of Decency, who had come along to keep an eye open for That Sort of Thing, too. The ladies spoke out as though they had arrived only recently at a discovery, but their viewpoint had been foreseen by many of the protestors long before this demonstration and was the recurring subject of one of the never-resolved discussions with which veterans of the peace movement were familiar.

One faction had long argued that they should make their point by doing what they could, as far as appearances went, to "make a good impression." The other side of the argument saw nothing in this notion but compromise; they believed that nothing lasting or valuable would be gained by giving in to the conformist ideals of the public and being "more middle class than thou," and they insisted that some of the best energy in the movement came, and inevitably would come, from the kind of individualism which insisted on its right to such harmless freedoms as the freedom to dress as the dresser pleased, whether conventionally or not.

The U. S. Attorney's point of view on this subject was no more surprising than was that of the aroused ladies. It was not very different, either, in anything except vocabulary. Mr. Poole's job involves knowing how to align himself with power. After the second night and the second carry-out (in which fifty-three demonstrators had been lugged from the building), he told the press that he had conferred by telephone with his superior in Washington, and was not contemplating further arrests at the moment. He did not express joy at the decision, but felt called upon to produce justifications for his clemency. He preferred, he told the press, not to turn personality problems into criminal problems. Someone was interested in knowing what he meant. "Go look at them," he said. "Some of them are sick."

Signs of an Epidemic

The sickness was catching, whether or not it was frightening. One of the guards who had been exposed to it for a day was approached by a woman who asked him what these people were demonstrating about and he answered that they were intelligent and articulate people, and suggested that she try asking them herself. Another guard, after talking with a few of the demonstrators for some time, expressed sympathy with their purpose and asked some of the older and more experienced ones what they thought would happen to him (he was looking forward to a pension in a few years) if he were to join the sit-in or the picket line when he was off duty and out of uniform. Still another guard's wife asked to be allowed to join the pickets. Obviously a free society cannot be guarded if this sort of freedom is tolerated, and one of the guards was eventually removed and transferred to another beat for a time, and when he returned to his duties at the demonstration, he was in disgrace. As a mark of his shame, he had been ordered to wear a gun. It is not all American law-enforcement bodies that regard a weapon as a degradation.

On the fourth night of the sit-in, the patients decided to help their keepers. There were some thirty of the protestors in the corridor waiting for the usual carry-out, and with them were perhaps as many more who were friends or fellow demonstrators who planned to do as they had done before, i.e., to leave under their own power when they were officially asked to do so. (The marshal's nightly request that the demonstrators leave had become part of a ritual; those who remained after that, though they might not be arrested, were technically committing civil disobedience, and regarded their act as such.) Toward the end of the evening four large young men in black leather jackets stepped into the corridor.

Judging from the appearance and manner of these four, the demonstrators supposed that they themselves were about to receive some of the physical punishment which the picketers outside the building had been promised by angry hecklers since the beginning of the demonstration. Instead, the new entrants engaged them in conversation, asked in detail what their pitch was, and before long decided to join them. One of them announced that these were the first people he had met in a long time who weren't phony. On the other hand, the leaders of the sit-in thought that the newcomers, however interesting, were liable to present a problem. It

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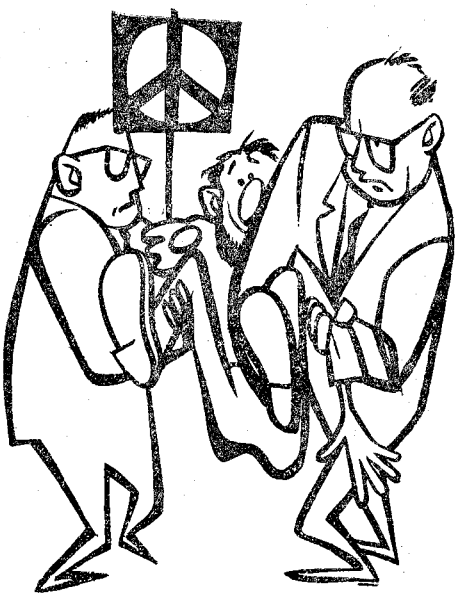
seemed doubtful that their allegiance to nonviolence was either considered or dependable; their sympathy with the demonstration appeared to stem less from a profound dismay at nuclear weapons and the arms race than from a desire to make things hard for the authorities and not get arrested for it. The finer points of the difference between the post-office guards and the city police, and of the arrangement that had developed between the guards and the marshal's men, on the one hand, and the sit-ins on the other, did not at once appeal to the new entrants; they were determined to get themselves carried out with the sit-ins, as a gesture of their own.

In the circumstances, the demonstrators conferred and decided that they themselves should not stay to be carried out that evening, but should walk out when asked to leave, rather than have the seriousness of their protest called into question. A few minutes later when the marshal requested them to go so that the building could be closed, they did so. The new entrants left, too—their faith shaken—and did not spend the night, nor come back again.

The Fixed Core

By Sunday it was possible to work out an overall plan for the demonstration. It would continue, unless prevented, until the trial, or until Mr. Lazar was released from jail. A further decision was made with the seriousness of the protest in mind. Mr. Sandperl and the demonstrators discussed the possibility of fasting as long as the demonstration continued; the fast would be a voluntary and individual act, and no one would take any pledges or do anything of the kind. Its purpose would be to intensify the protestors' own sense of what they were doing, rather than to try to put any further pressure on the authorities.

By the time the fast was begun, it was plain who made up the more or less fixed core of the demonstration. The total of picketers and sit-ins varied, and at one time there were well over a hundred, but there were not more than thirty or thirty-five who stayed at the post office



day and night and were determined to go to jail when the government decided that it was no longer politic to be patient with them.

Of this number, more than half were students, but there were also a handful of laboratory technicians, an elevator operator, several painters, a frame-maker, a carpenter, a teacher and a truck driver. One of the younger demonstrators still belonged to a street gang; he came with a friend and spent his nights in a blanket in front of the building. Members of the gang would come during the day and visit him, teasing him a bit, with an eye on the cops; his brother had been in the service, he said, and had been exposed to radiation from nuclear explosions. His brother's child had died of leukemia. The connection between the two facts, of course, could not be proved, but the possibility of it could not be forgotten (so it is, we are told, that superstitions are born) and when the uncle of the dead child had stumbled on these people building their boat over in Sausalito, he had thought they seemed to make sense. He had thought about it, and when they got in trouble he had felt like helping them. That was what he was doing there.

There were other unexpected representatives of the American tradition. One demonstrator who ended in jail was named James Thurber, a clerk. And another, who also went to jail and was brutally treated there by the police to punish him for "going limp" was named Tom Sawyer, a laboratory technician. Mr. Sawyer had been at college in Walla Walla, Washington, until he had led a demonstration there at a time when the Vice President of the United States was visiting the campus, whereupon the college had taught him its final lesson by expelling him. He had begun his own fast on May 26, the day of the seizure of *Everyman*, so that he was a week ahead of the others when they began.

The truck driver was a burly man from a small town in Idaho, and obviously he had not often fasted before. He said that he had worked his way in his mind from a distaste for killing to a distaste for capital punishment, and eventually he had decided that nuclear explosions were not commendable even if they were ours. He had found some people in his home town who felt the same way—about ten of them. And they had made placards and got ready to have themselves a little demonstration. Only, when the police chief (an old friend of the family, too) heard about it, he had come along and said, "You go out there with those placards and I'll give you thirty days," and after a little while it had seemed best to leave town. But this time, the truck driver said, he would go to jail, he would fast, he would go all the way. Fast or no fast, he was heavy on the stretcher every night when the guards carried him out.

As the stretchers came through the door at midnight, the rest of the demonstrators would be waiting, surrounded by a crowd of spectators, some sympathetic, some hostile. Then those who would spend the night there would drift around to the front of the large building to start assembling some bedclothes.

Questions in the Night

By two in the morning, most mornings, the sidewalk would be nearly empty. Often a few of the demonstrators, usually including Mr. Sandperl, would walk up and down for hours after that, in no organizational capacity but simply because they did not feel like sleep. Some-

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times they would dutifully carry placards, sometimes not. They would talk; they would address themselves to the question of what they were doing there; what made them believe that their way of acting was the right way? They were aware that their gifts and knowledge and their characters were quite ordinary, and that they were trying to do something—among other things, to bring themselves to a kind of behavior, a way of confronting circumstances, which was probably beyond their capacities.

U.S. Attorney Poole was not the only critic who had suggested that "these people" thought they had all the answers: they were concerned, themselves, over the twin perils of a closed smugness, on the one hand, and of hopeless resignation on the other. It began to get light, some mornings, as they walked back and forth past the sleeping bags, accompanied finally by nothing but the mist coming in off the Pacific. What would they do, they would ask, if they were confronted by such and such unpleasant but possible circumstances? Most days they were faced with no tests more searching than could be supplied by angry hecklers threatening violence, but there were other moments which called their principles into question, and some of them had nothing to do with the arms race.

There was a man, for example, who sat every day, all day, in front of the post office, with the demonstrators and slept on the stone among them at night. He got into conversation with no one, so for some days no one knew anything about him. Then one of the guards told a demonstrator that he was known to the police, and was using the demonstration so as to be able to spend a few days loitering without being disturbed. It was also said that he had a psychopathic history, would almost certainly steal if he thought he could get away with it, and that it was likely that he was armed. The information was not accepted without question, but it probably did affect subsequent conversations, such as they were, with the figure sitting there on the ledge in dark glasses and baseball cap, with his knees drawn up.

The Face of Nonviolence

Then one night he appeared, stepping among the sleepers, smelling of alcohol, stumbling over guitars and books and a set of crutches, fumbling among belongings, muttering to himself. First one and then another of the men in front of the building spoke to him, but he ignored them. They went closer to him and began to talk to him, asking him what he was looking for, but when he answered it was violently and he went on with what he was doing. After a while he went over to the ledge and sat down, and when the men who had been talking to him went away he got up and started over again. This time he began to pick up the corners of blankets, whether or not there were sleepers under them, and examine them. It became plain that several of the men were awake and watching him. A few more got up. Mr. Sandperl was awakened; they discussed what they should do. Mr. Sandperl, whose education in nonviolent resistance surpassed that of most of the others, was opposed to calling the police. No one wanted to put himself, or the others, under that kind of protection. Most of the men went back to their sleeping bags, but stayed awake, watching; a few stayed up to learn how you protect, if *you have to, nonviolently.*

The man went on with his activity. Finally, he began to haul a blanket off a sleeper. The men who were standing nearest him pushed themselves between him and the person whom he had awakened; they pointed out that the blanket was not his and offered him his choice of bedclothes elsewhere if that was what he wanted. He turned on them with a knife. They continued to stand there, talking to him quietly, ignoring the weapon. After some time he stepped back and walked away. Later the police themselves kept the man away from the post office, but by that time a few of the demonstrators, at least, felt that they had perhaps learned a little about facing threats without violence. They reminded themselves that things had not been quite fair, since there had been several of them, and the man with the weapon had been alone. They were wary of exaggerating the importance of the incident. But they thought they had learned that it was possible, in some circumstances at least, for a person to confront a weapon simply by putting himself between it and other possible victims, without preparing or intending counter-violence. And they thought they had found out that it was possible to act in this strange way even when thoroughly frightened. It was, as one of them remarked, an awkward and maybe rather a dangerous thing to have learned. But then there was no reason to assume that nonviolent resistance must be less physically dangerous, for its practitioners, than the exercise of violence itself.

They were there, they kept telling themselves, to "awaken consciences" —and first of all their own. "I don't know anything about conscience really," one of the picketers who was there every day said; "I'm here mostly to protest against the violence in myself."

The Lookers-On

To those waking up early in the morning, lying there watching the citizens of San Francisco emerge one at a time on their way to the day, no assumptions seemed safe. A man in a good summer suit, not a person to pay attention to this sort of thing, would come along the sidewalk, slow down, seeing them all asleep there, and sneak up close for a good, long, slow look. Then he would suspect that he was being watched, straighten up looking scornful, and walk on. One of many. It was in the first daylight that the question would walk boldly up and down the street: are *you* your brother's keeper, and who said so, and if you are, how do you go about it, how do you talk to your brother in *his* world, of which you don't know any more than you do about your own? At least I have at first-hand that this question was met there at that hour, and no sudden conversions of skeptics and scorners the night before (there were quite a few) and no recollection of single acts of sympathy or faith or any of those other creatures were proof against the encounter.

Echoes of the question, it has been said, would be heard during the day too, but the destruction that wast-

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eth at noonday was different. It was not composed of the bitterness of the daily increasing number of hecklers: the anti-Semite who declared that all demonstrators were Jews and should be boiled to death as Hitler would have done, the militarists shouting Obey in all its conjugations and variants, the Pole calling out "U.S. citizens" and laughing, and then saying, "I wish I had a machine gun, I'd mow you all down." It was made up of the mixed complacency and despair which seemed to characterize the public whether or not they showed any awareness of the demonstration and what it was about.

The complacency needs no citation. The despair was most economically summed up by a man on a park bench in front of City Hall, one lunch time. The demonstrators, he had said, were utterly futile, and it seemed that that was his last word on the subject. He picked up his reading matter; and then he put it down again and looked at the ground and said, "But I guess they're the conscience of the country. On the other hand a conscience is a liability. You can't run a business with a conscience. I've compromised with mine all my life. We see things that are wrong, but we don't do anything about it. A conscience is a thing to brag about at banquets, but it's too uncomfortable to live with, for most of us. Those people down there, they're trying to wake up our consciences, but it won't work because what most of us want is to deaden them. Maybe that's why the human race isn't justified in looking forward to a long and happy future. They've temporized with everything. It's too late for an act of conscience, any act of conscience, to be effective any longer."

The gentleman's counterpart was a middle-aged Negro woman on a bus who used the same facts to arrive at slightly different conclusions. She said first that those bombs were just the worst thing that could be. Put them, she said, in the ocean and what do you think the ocean's finally going to do? Going to rise up. Going to blow up and destroy the whole beautiful earth God gave them, and God is going to let them do it because they don't care for each other at all any more. Those people at the post office, she said, she felt for them, giving themselves over to hardship to free everyman who was in bondage. (The lady was not aware of the boat, unfortunately.)

The Trial Opens

On June 7, Mr. Lazar and his crew mates came up for trial for threatening their country with irreparable injury. Somebody, one of the hecklers had said, has got to be government. For the next two days, as far as *Everyman* was concerned, somebody consisted of U.S. Attorney Cecil Poole.

Mr. Yoes's lawyer, Marshall Krause, suggested that there had been irregularities in the seizure of the boat and the returning of the crew, that the government had been acting beyond its jurisdiction and that a notice of arrest had been improperly given. He cited a phrase meant to regulate criminal procedure: "The government may not use the fruits of wrongdoing in its officers." Mr. Krause went into detail about its being illegal to serve processes outside the territorial limits of the United States; he objected to the manner in which the court order had been got up, with the U.S. Attorney alleging an emergency when, in fact, he had had weeks to act. Mr. Krause said that the U.S. Attorney, through this delay, had effectively removed the possibility of a hearing before the announced departure time. Secrecy, and this sort of underhanded procedure, he said, had characterized the government's actions in this case from the start; evidently Mr. Poole had had so little confidence in his legal power to restrain *Everyman* that he resorted to these sleights to avoid a hearing and invoked an emergency of his own contriving.

Mr. Wirin, for the defense, then declared that the restraining order was void. The AEC regulation on which it was based, he pointed out, had been pronounced invalid by the San Francisco Appellate Court. He moved that the show cause order be quashed, and there were other motions for the defense. All were heard in full, and denied. Then there was a recess.

After that, the government read from its affidavits concerning how dangerous the trimaran would have been to the United States if it had been allowed to sail. The marshal, when asked about how he had worded things at the time of the seizure of the boat, said that he had told Messrs. Stallings and Yoes that he was "taking them into his physical possession"—which, of course, was not the same, as they should have realized, as saying that he was placing them under arrest, which he had done in the case of Mr. Lazar. In the course of the questioning that brought this verbal precision to light, there were those in court who thought they had heard Mr. Stallings address the marshal as "Friend Heslep," but the marshal, later, had not received that impression.

At the noon recess, the press caught a rumor and asked a CNVA representative whether or not it was true that another sailing was planned on another vessel. They were told that it was and given details. When court resumed session, Mr. Poole, for

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the government, called Roger Moss, of the San Francisco office of the CNVA, and cross-examined him about the committee's intentions. He learned, for the record (over a number of objections), of the plans for *Everyman II,* a ketch, formerly the *Patsy Jean.* This vessel, the committee hoped, would sail from Honolulu within a few days. The crew would consist of Dr. Monte Steadman (a distinguished San Francisco physician and head of a department of the Kaiser Foundation Hospital there), George Benello (a teaching assistant at San Francisco State College and former Harvard classmate of Robert Kennedy) and Franklin Zahn (prison secretary for the Pacific Southwest Office of the American Friends Service Committee). Mr. Poole also asked whether the committee planned to sail the trimaran for the test area again if they could, and the committee admitted that they hoped to do just that.

An Unlawful Law?

Having established that the defendants were incorrigible, Mr. Poole turned to his affidavits again, and then with a single easy slur he ran through the list of freedoms which had been mentioned in the course of the affair—freedom of the seas, conscience, etc.—and dismissed them. They were not relevant. The AEC regulation, he said, gives the United States jurisdiction over its citizens and its vessels in areas restricted by the AEC anywhere in the world.

It was again Mr. Wirin's turn to argue the validity of the AEC regulation. The Atomic Energy Act, he says, nowhere empowers the commission to carve out a section of the high seas and forbid people to enter it. The United States Court of Appeals had made this point in the Reynolds case. Furthermore, he said, the act requires the Atomic Energy Commission to comply with administrative procedure which had been violated in this case by the manner in which the restraining order had been arrived at, among other things. Then the law pertaining to freedom of the seas was brought up, and the sense in which the regulation in question—and the action of the government which, in this case, had been based upon it—violated that law. And then it was submitted that the regulation violated several specific guarantees which are set forth in the Constitution of the United States.

Again referring to the second Reynolds case, Mr. Wirin submitted that the court had no jurisdiction to prevent the crew from sailing *to* the test area, whatever might have been the position about their entering it.

As the regulation had been used here and in the earlier protest sailings, Mr. Wirin argued, the government has simply found a formula for jailing inconvenient protestors without trial by jury. No citizen, he reminded the judge who was the representative of the citizenry, had had a chance to pronounce on the AEC regulation in question before it had been adopted. A powerful process of government had been invoked against citizens without notice having been given to them. Mr. Wirin adverted to the secret processes of the Star Chamber. The court, by issuing the restraining order, he said, in effect had made the AEC regulation apply not only to the testing area, but to the whole Pacific all the way to Sausalito Harbor. And before he had finished, Mr. Wirin had said what could be said, in the circumstances, about the dangers to freedom of speech and of religion which, he declared, were being threatened by the government in this case.

Mr. Poole, in denying the relevance of the Reynolds case, was anxious to point out that amendments to the Atomic Energy Act were there specifically to regulate the relations between private industry and the AEC. The AEC, he contended somewhat later, has the normal rule-making powers of other government agencies, and these are sufficient to let the commission do what it wants to do to further its purposes. It is true, he admitted, that this is the only civil agency with jurisdiction of this kind over such a large area (Mr. Wirin had mentioned that the 1962 test areas approach in size the land area of the United States, exclusive of Hawaii and Alaska). Mr. Poole said that it was presently the position of the Attorney General of the United States that under the said act, the commission can do all that he wants it to do, and that the Reynolds decision did not represent the Attorney General's point of view. (The relevance of the Attorney General's opinion in the matter escaped some of the people of the United States assembled in the court, but perhaps it was clear to their representative on the bench.) Having argued that the Atomic Energy Act was quite adequate, Mr. Poole then went on to argue that it was not as strong as it should be and therefore should be enforced with the utmost possible strictness.

Marshall Krause, for the defense, spoke of the dangerous vagueness of interpretation with which the government had applied the regulation in question. And then the judge found all three defendants guilty of willful disobedience and contempt of the restraining order and allowed them each to make a statement.

The Accused Speak

Harold Stallings made his first. Nothing that he said, he told the court, should be misconstrued as a defense intended to mitigate the penalties to himself that might result from his act. He said that he could lay no claim to absolute certainties, but that he found himself "on a path the walking of which is becoming more important to me than its destination." He set about trying to

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dispel what he thought were some current misconceptions about his character. He had been referred to as a Captain: the image conveyed was one of command and resource, and "did not even hint at the sea-sick guy unable to even think for his own fear, willing to have his friends endanger themselves on that boat before himself." Words such as "conscience," "morality," "Quaker," had been used in referring to him and his actions, invoking an image of "the gentle religios, the other-worldly searchers after truth and salvation," and not "the greedy child—the guy who postures and grimaces —the one who delights in hiding from tough daily decisions behind a façade of big words and then runs to escape the consequences of his own indecision. . . ." But the weaknesses were there, and how could someone who knew that there were such flaws in him find any justification for being there in court under such circumstances:

> Why didn't he run in shame from the hypocrisy of presenting himself there? Simply because I am a man. . . . Cecil Poole's question yesterday always hits me with fresh new import. "Hal Stallings—are you flagrantly doing what you 'durn well please?' Where did you get the *right* to think you alone might be right?" I don't *know* that I'm right. Here is the paradox I find in myself: recognizing . . . that I am terribly human . . . I have had to try to act. I have tried to indicate my weakness, my propensity for selfishness. There is another side. What do I aspire to? To once in a while put some other person's comfort and safety before my own. I can't tell why . . . but sometimes I yearn to love another person as much as I do myself.

He indicated a desire for a world in which his children had a fair chance of growing up, and his sense of indebtedness to the orphans of a Japanese policeman who had died as a result of radiation received after the Hiroshima bomb blast there, when he had gone into the city to help the hurt.

> Once in a while [Stallings said], it comes hard into me that there are fathers all over the world who have heard it said in my name that for various reasons if the situation so develops I will burn up their homes and their families. I yearn to tell them different. Sometimes I yearn to go unarmed to them and promise with my whole heart that no matter what may come into my hands, no matter what the threat to me or mine, they are safe to live in the same world with me. Pretentious as it may seem . . . I feel that I have acted out of my humanness. I hold no contempt for law, this court, or any person involved. . . . Yet I have come to that place where there are no alternatives. What may seem terribly complex to some seems terribly simple to me. I must not kill or hurt or threaten to kill or hurt. I must not, insofar as I have any power, let any be killed or hurt. These bomb tests and the getting ready for war are killing and hurting. I must go in weakness and confusion to put myself in the path of that killing.

Then he told the judge that he would accept the judge's decision and penalties "in the same spirit of good will with which you've accepted what I feel I must do."

It was Mr. Lazar's turn. His view of his arrest had not changed and he would not stand to speak. He said he believed that he should not cooperate with injustice. The judge consented to hear him even so. His tone was level, deliberate and rational. He said that this was simply in the nature of a comment; the voyage had been his real statement. He had felt that he must act, that words were no longer enough. Our defense of freedom, he said, is robbing us of our freedom. We are becoming a centralized military state in which armaments and their institutions are considered to be of more importance than are individual rights. He knew, he confessed, that the United States was freer than some other countries and that freedom could not be absolute. But the tendency in this country is toward a continuing lessening of freedom. In opposing totalitarianism, we are becoming totalitarian ourselves. That, he suggested, was one thing which the voyage had been trying to say. By what right, he asked, did the government's attorney presume to speak (as he had done) for the "free world"? Would Japan, if asked, have approved of bomb testing? Would India, among others? Would the UN (whose Secretary General had openly condemned the present test series—most recently on June 5, only three days before)?

The Pacific Ocean, Mr. Lazar said, is not a laboratory. Every test kills and pollutes and leads closer to a nuclear war, and the people have not been consulted. Is testing, he asked, adding to our security? The nuclear club is growing. The dangers of small wars turning into a nuclear war is increasing. Was this, the judge asked, relevant? Mr. Lazar said that he had been accused of behavior likely to cause irreparable injury to the United States and that he was addressing himself to that charge. He continued with suggestions for disarmament, foreign aid and conversion to a peacetime economy. He said the voyage had been an attempt to appeal to people all over the world to challenge the military preparations of their governments. He had been called irresponsible, he said, but he believed that it was a citizen's responsibility to challenge irresponsible government. He asked to be released so that he could continue the voyage.

Mr. Yoes made a short statement. He said he believed he was standing in court representing other people who were unable to be there. He was asked whether, if he were released, he would observe the conditions of the restraining order, but he answered that as long as men like Mr. Stallings and Mr. Lazar were prepared to undertake acts such as these and could use his help, he could not promise not to help them.

Everyman had already made his statement some time earlier. He had said:

> Indede, deth was with me here. . . .
> Methynke, alas, that I must be gone

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To make my rekenynge and my
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For I se my tyme is nye spent awaye.

The government had one more motion to make. It asked to have the demonstration at the post office forbidden until the end of the test series, on the grounds that the demonstrators were acting in concert with the organizers of the voyage; according to Mr. Poole the word "conspiracy" might be applied to them. But the court decided to risk it just the same—anyway, Mr. Poole had other means at his disposal.

The Sentence

After lunch, Judge Sweigert made his statement. The government, as he emphasized, had composed the Atomic Energy Act and was carrying out the Dominic tests. The law, he said, could not satisfy all consciences. The assassination of Lincoln, after all, could be described as an act of conscience. The struggle for religious liberty appeared to him to be a record of the state's attempt to accommodate itself to the demands of conscience. From this remarkable view of history he turned to the Constitution of the United States and said that that document and its interpreters had tried to respect conscience "as far as possible"—even in war. In this case, however, no such former accommodations need apply, for the defendants had not been encroached on by the law, but had willfully and gratuitously gone out of their way to break the law. The courts, he said, are the zealous guardians of individual liberties, and the defendants have enjoyed the benefits of their protection. Nevertheless, the defendants' rights to freedom of speech, religion, travel and the like were not involved in this case. But even if they had been, they would have to be exercised within limits imposed by the courts. The courts were the people's protection against dictatorship, he said, and the defendants had committed an act of violence upon the law and therefore against the whole of society. He sentenced them lightly—to thirty days each, but he had sustained the AEC regulation in question, and in the Pacific the United States Government, respecting law in its own fashion, and unmenaced for the moment by sailboats or consciences, could continue to defend the free world with nuclear tests whether the free world wanted to be defended that way or not.

Not the Last Word

And around the post office itself, once the trial was over, a shift in feeling occurred. Marshal Heslep told Mr. Sandperl that the authorities would now have to get tougher and Mr. Sandperl replied that the demonstrators would have to get gentler. The marshal said that that was just what he was afraid of. A little later the demonstrators and some of the press heard the marshal announce that they would be charged with a felony if they remained in the building. The announcement later turned out to be incorrect. Thirty of the demonstrators sat in, in the familiar corridor, until they were dragged out. When they returned, under warning, they were arrested. Some walked and some were carried to the paddy wagons. (They would be booked on a charge of committing a nuisance—not a felony.) The picket line continued. The crowd blocked streets around the post office. Some of the crowd and some of the demonstrators were singing; the shouts of hecklers ("I was the toughest Marine in my outfit and I'd like to show the sons-of-bitches") and of the city police cracked above the songs. That afternoon a record peacetime arms budget was approved in Washington and the fifteenth test bomb in the series was exploded.

AT THE END of the play, after *Everyman* is dead and the angel has spoken, a learned Doctor comes on stage to propound the moral. As befits his office, he is dreadfully certain:

None excuse may be there for
Everyman,
Alas! howe shall he do then?
For after dethe amendes may no man
make,
For then mercy and pyte doth hym
forsake. . . .

But we have not reached that point yet. The angel has not even spoken. Or if he has, he has not been heard.

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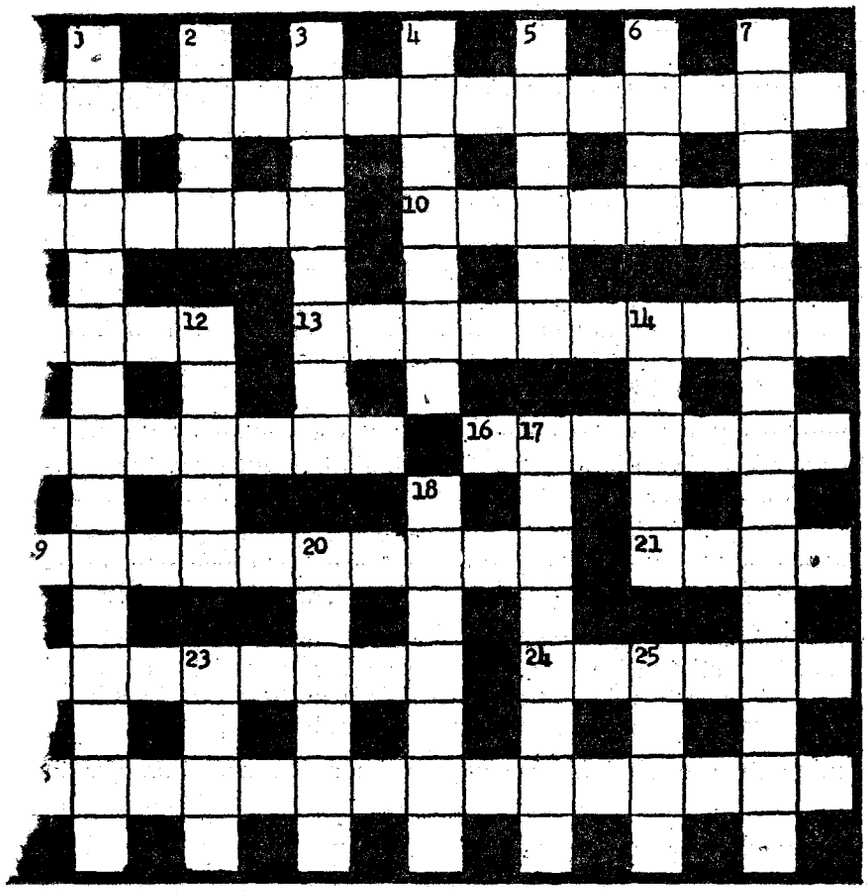
Crossword Puzzle No. 991

By FRANK W. LEWIS



ACROSS:

8 It takes rather big things to make Bing sing, or a band arrangement that is different. (15)

9 Where Luanda is found along a different route. (6)

10 Silences, or concedes freedom of speech? (8)

11 Is 9 such a place for us? (4)

13 You say it won't go for less? (It's not the penalty for becoming irritated.) (5, 5)

What the cavalry did with a sort of torpedo? (7)

Where snuff might be appropriately related to tobacco. (7)

19 Certainly not indicative of high-handedness. (10)

21 Dog-eared, but not with a colorful individual such as an old republican. (4)

Ash, perhaps, or leading to it? (8)

and 1 down Arline Lanier responsible for such mathematical terms? (6, 15)

The understanding of politics? 7, 8)

DOWN:

See 24 across

Flowing robe? (4)

3 Bad issue set right? Set right! (8)

4 One way to find your sea-legs? It's a never-ending problem! (7)

5 Blood letter? (6)

6 Such a manner sounds rather crude! (4)

7 Go from line to line quite competently? (15)

12 The shape of a better Homburg. (5)

14 Assigned position. (5)

17 Holmes said the world's great men have not commonly been great ones. (8)

18 What one shouldn't do to a cat on landing? (The clue is just a plant!) (7)

20 What the twist does to torsos gets set for the rest. (6)

23 Something 4 down goes on for this. (4)

25 The one which lost the battle wasn't driven, obviously. (4)

SOLUTION TO PUZZLE NO. 990

ACROSS: 1 Dew point; 5 Puppet; 10 Airless; 12 Laser; 13 Orris root; 14 and 22 Child's play; 16 Test case; 19 Construe; 24 Sharpen up; 26 and 11 Moral victory; 28 Rainbow; 29 Ratteen; 30 and 31 Window dressers. DOWN: 1 Deadlock; 3 Overrides; 4 Nose out; 6 Uneas; 7 Proconsul; 8 Trysts; 9 Averts; 15 and 2 Isolation wards; 17 Casemates; 18 Cyclones; 20 Renews; 21 Emperor; 23 Escrow; 25 Pablo; 27 Reeve.

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